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U.S. FISH AND WILDLIFE SERVICE, NOAA FISHERIES ISSUE REGULATIONS TO IMPROVE ENDANGERED SPECIES CONSULTATION PROCESS FOR PEST CONTROL PRODUCTS

The U.S. Fish and Wildlife Service and NOAA Fisheries today finalized new regulations establishing for the first time a more efficient approach to ensure protection of threatened and endangered species as part of the U.S. Environmental Protection Agency's approval process for pest control products. The regulations were developed following a comprehensive scientific review of EPA's risk assessment methodology.

The improved review procedures, developed in cooperation with EPA and the U.S. Department of Agriculture, will provide a workable and efficient framework to ensure necessary measures are taken to protect fish and wildlife. At the same time, the procedures will ensure that farmers have the pest-control products they need to grow food, consumers can continue to use household disinfectants and lawn care products, and mosquito control products will continue to be available for use by public health authorities.

Under the Endangered Species Act, EPA must consult with the Services to ensure that registration of products under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) is not likely to jeopardize the continued existence of federally listed threatened or endangered species or result in the destruction or adverse modification of critical habitat.

The two services proposed the regulations in January and received extensive public comment.

Because of the complexity of consultations to examine the effects of pest-control products, there have been almost no consultations completed in the past decade. A recent court decision cited the lack of consultations in limiting the use of essential agricultural pest-control products.

Under existing law, EPA routinely evaluates the broad impact of pest-control products on the environment, including the effects on endangered species and other non-target organisms. Before proposing this rule, scientists and regulators within the Fish and Wildlife Service and NOAA Fisheries spent a year conducting an extensive review of EPA's approach to ecological risk assessment and offered recommendations that EPA has incorporated.

Based on this scientific review, together with an understanding of EPA's considerable scientific expertise, the Fish and Wildlife Service and NOAA Fisheries concluded that EPA's approach to risk assessment will produce determinations that reliably assess the effects of these products on listed species and critical habitat.

"This is the first administration to address a long-standing need to create a workable framework to protect species, ranging from salmon to butterflies and songbirds, ensuring that the potential effects of thousands of pest-control products are examined in a timely and comprehensive manner," Service Director Steve Williams said. "At the same time, we are making sure that farmers can continue to provide abundant food for our country and that consumers can continue to use many popular household and garden products."

"The two agencies completed a scientific review of EPA's risk assessment process, and concluded it allows EPA to make accurate assessments of the likely effects of pesticides on threatened and endangered species," said Bill Hogarth, assistant administrator, NOAA Fisheries. "We've worked with EPA to make sure that this new process will help eliminate the chances of pesticides harming threatened and endangered species. This approach will allow the Services to focus their resources on those consultations that will have the greatest benefit for the species. I am very pleased that we are able to help expedite the pesticide review process."

"Today's final regulations, if implemented appropriately, will greatly improve the science-based decision-making process for protecting endangered species," said Susan B. Hazen, EPA's principal deputy assistant administrator for prevention, pesticides, and toxic substances. "This successful collaboration between the services and EPA will lead to stronger protections for endangered species faster."

"Agricultural producers are the first-line conservationists. We applaud the proposed efficiencies in this rule as a way to protect the health of our families and neighbors while we continue to provide food for our communities. The new consultation process compliments our efforts to reduce the potential impacts of pest management

activities on wildlife as well as soil, water and air quality,” said Bruce Knight, USDA’s chief of the Natural Resources Conservation Service.

As finalized, these counterpart regulations will allow:

- By using the most sophisticated scientific methodologies available to protect wildlife from potential pesticide risks, EPA could determine that the use of a pest-control product is “not likely to adversely affect” a listed species or its critical habitat without either concurrence of the Services or informal consultation. The wildlife agencies would perform periodic reviews of the methods that EPA employs to arrive at these determinations to ensure EPA is making determinations that are consistent with the requirements of the ESA.
- When formal consultation is required, EPA may utilize an optional procedure to develop a determination of the effects of the pest-control product on listed species for the Services’ review. The procedure also allows EPA to request direct involvement of representatives of the Services in the effects analysis. As required by law, the Services would make the final determination whether threatened or endangered species are likely to be jeopardized by a FIFRA action.

Manufacturers register a wide variety of products, ranging from agricultural pesticides to commonly used household products, which are regulated under FIFRA. As a result of EPA's ongoing reevaluation of previously registered pest-control products, as well as the recent litigation, the three agencies anticipate a significant increase in the number of future consultations.

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